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RUEHMO/AMEMBASSY MOSCOW PRIORITY 3989
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 6876
RUEHNY/AMEMBASSY OSLO PRIORITY 8706
RUEHOU/AMEMBASSY OUAGADOUGOU PRIORITY 8978
RUEHFR/AMEMBASSY PARIS PRIORITY 6344
RUEHPL/AMEMBASSY PORT LOUIS PRIORITY 3154
RUEHSA/AMEMBASSY PRETORIA PRIORITY 6388
RUEHRH/AMEMBASSY RIYADH PRIORITY 3433
RUEHRO/AMEMBASSY ROME PRIORITY 2377
RUEHSJ/AMEMBASSY SAN JOSE PRIORITY 1302
RUEHSG/AMEMBASSY SANTIAGO PRIORITY 0126
RUEHVJ/AMEMBASSY SARAJEVO PRIORITY 2282
RUEHUL/AMEMBASSY SEOUL PRIORITY 1951
RUEHTC/AMEMBASSY THE HAGUE PRIORITY 6404
RUEHKO/AMEMBASSY TOKYO PRIORITY 0590
RUEHYD/AMEMBASSY YAOUNDE PRIORITY 1388
RUEHGV/USMISSION GENEVA 9242
RUEHUB/USINT HAVANA 7195
INFO RUEHAK/AMEMBASSY ANKARA PRIORITY 0159
RUEHHI/AMEMBASSY HANOI PRIORITY 0173
RUEHKM/AMEMBASSY KAMPALA PRIORITY 6422
RUEHTRO/AMEMBASSY TRIPOLI PRIORITY 9826
RUEHVI/AMEMBASSY VIENNA PRIORITY 9501
RUEHVB/AMEMBASSY ZAGREB PRIORITY 3297
RUEHTV/AMEMBASSY TEL AVIV 9418
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C O N F I D E N T I A L SECTION 01 OF 06 STATE 098567

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TAGS: [PREL](#) [PHUM](#) [PTER](#) [KISL](#) [KPAL](#) [IS](#)

SUBJECT: ACTION REQUEST: CONSTRUCTIVE OUTCOME FROM THE
GOLDSTONE REPORT

Classified By: Esther Brimmer, E.O. 12958: 1.4 (b) and (d)

11. (U) This is an urgent action request. Posts should make determinations about delivering the points in para 8 and 9 below based on their discretion and best understanding of how to advance USG goals identified in

paras 5 and 6 with host governments. Please see para 7 for action request.

Background

12. (C) In January 2009, the United Nations Human Rights Council (HRC) in Geneva held a special session on "violations of human rights in the occupied territories" and mandated that a fact finding mission be sent to investigate "all violations of international human rights law and international humanitarian law" by Israel against the Palestinian people. Justice Richard Goldstone, former Chief Prosecutor for the UN International Criminal Tribunals for the former Yugoslavia and Rwanda, agreed to lead the mission but said he would investigate actions by all parties to the conflict: Israel, Hamas, and Fatah. On September 15, Justice Goldstone held a press conference in New York announcing the release of the 575 page Report of the United Nations Fact Finding Mission on the Gaza Conflict (www2.ohchr.org/English/bodies/hrcouncil/spec_ialsession/9/docs/unffmcreport.pdf).

13. (C) We continue to review the report, which is very lengthy and raises complex issues. We have very serious concerns about the Report that cannot be ignored. These include its unbalanced focus on the actions of Israel,

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its overly sweeping factual and legal conclusions, and its recommendations, including a call for this issue to be taken up in international fora outside the HRC and in national courts of countries not party to the conflict. The Report's substance, recommendations, and broader effects could have a strong impact on many of our interests beyond the United Nations. Some of the recommendations in the Report go beyond a conflict mandate into areas that can be resolved politically in the context of successful permanent status negotiations between the Israelis and the Palestinians.

14. (C) The UN HRC is scheduled to discuss the Goldstone Report formally on September 29, but it is likely that the Organization of Islamic Countries (OIC) will begin lobbying efforts on its own resolution on the issue as soon as this week (September 21-25). Rather than simply voting "no" on a biased resolution, we will seek to engage diplomatically to achieve a more constructive HRC outcome. Even if our efforts fail, and we are forced to oppose a resolution in the end, we believe our efforts to engage constructively may foster some support from like-minded delegations. It is likely that even those with whom we may disagree may view our engagement positively.

USG Goals

15. (C) The U.S. has several key objectives regarding the handling of the Report: (i) ensure that repercussions from the report do not interfere with our efforts to re-launch Israeli-Palestinian permanent status negotiations; (ii) avoid an outcome that is one-sided and biased against Israel; (iii) prevent the report from engulfing the entire HRC session and our efforts to improve our relations with Arab and Muslim countries and the international community generally; (iv) ensure that U.S. early engagement at the HRC is viewed as responsible and fully consistent with our commitment to stand firmly and uniformly against human rights abuses wherever they occur; (v) preserve a focus on

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the important human rights issues that we have worked to promote (including passage of our HRC resolution on freedom of expression and ongoing diplomacy in the region); and (vi) contain the handling of the report to Geneva as long as we can, minimize activity in the UN Security Council

and the UNGA, and work to prevent efforts to refer the matter to the International Criminal Court.

¶6. (C) With respect to follow-up action in the UN HRC, our goal is to avoid a biased and one-sided resolution and/or a more artfully constructed resolution (which would attract European and other support) while still working against the objectives listed above. Rather, we will work with like-minded members of the HRC to adopt a short resolution calling on parties to comply with applicable international law and principles. To do so, we will seek to undertake the following actions: (i) ask OIC countries to delay tabling any text until after President Obama's appearance at the UNGA on September 23 and underscore the importance of working together on this issue to prevent it from derailing our efforts to advance Middle East peace; and (ii) canvass elements of a possible resolution with the Palestinians, Israelis, and all members of the HRC. The U.S. has already engaged with both the Palestinian PermRep in Geneva and Israeli diplomats in advance of the Report's release, and we will continue to discuss and engage in dialogue with both sides.

Action Request

¶7. (U) Addressee Posts are requested to deliver the message in para 8 below to host governments at the highest possible appropriate level and to report any substantive response immediately back to the Department to Cari Enav and Kelly Razzouk in IO/RHS and Jeffrey Giauque in NEA/IPA. Additional talking points are given for use with the OIC (para 9), Government of Egypt (para 10), and EU

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countries (para 11). All Posts may wish to share proposed talking points in para 8.

¶8. (U) BEGIN TALKING POINTS FOR CONSTRUCTIVE OUTREACH:

-- The U.S. continues to review Justice Goldstone's report. We have serious concerns with the report's unbalanced focus on Israel, its sweeping factual and legal conclusions, and many of the recommendations.

-- As we have stated previously, prior to U.S. membership, the UN Human Rights Council set forth a one-sided and unacceptable mandate for this fact-finding investigation.

-- Debate on this HRC report should be handled within the HRC. We appeal to countries to avoid reverting to the traditional divisive dynamics seen in previous Council sessions and instead work to produce a constructive outcome. The Council has an important program of work before it, and one issue alone should not overshadow the others.

-- Unproductive discussions and actions with regards to the Report could have negative consequences for President Obama's efforts to advance a two-state solution to the Israeli-Palestinian conflict. It is important to keep in mind the underlying causes of the tragic events in Gaza earlier this year -- the lack of a permanent status agreement between the Israelis and the Palestinians, and the attacks by Hamas against innocent Israeli civilians.

-- We are seeking your help in working towards a constructive and measured outcome and solicit your views and cooperation.

-- The following are principles we believe could be included in a balanced HRC resolution: (i) [note the Report,

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without endorsing it; (ii) encourage Israel and the Palestinians to investigate and address allegations in the report thoroughly through credible domestic processes; (iii) encourage the HRC members to keep this issue in the HRC; (iv) condemn violations of International Humanitarian Law and Human Rights Law regardless of the actor; and (v) recognize the right of a state to take legitimate action to protect itself in the face of threats to its security.
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-- The US would not be in a position to support a resolution that did the following: (i) gave a blanket endorsement of the Report and its problematic recommendations; (ii) recommend that the matter be taken up by the ICC, (iii) was biased, one-sided and focused only on Israel.

¶9. (U) ADDITIONAL TALKING POINT FOR USE WITH OIC COUNTRIES:

-- OIC: We need a strong showing of support from you. Our focus right now is on re-launching Israeli-Palestinian negotiations to end the conflict and the humanitarian suffering it has caused. President Obama's meeting with Israeli Prime Minister Netanyahu and Palestinian President Abbas on September 22, was a step towards this goal. We hope efforts related to the Middle East at the HRC will look to the future and how we can support the goal of a two-state solution.

¶10. (U) ADDITIONAL TALKING POINT FOR CAIRO:

- Egypt: We appreciate the work you have done on the Freedom of Expression resolution. We hope we can also count on your support and leadership now as we seek constructive ways to address the Goldstone Report. This is another opportunity for us to work together to produce a balanced and measured outcome.

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¶11. (U) ADDITIONAL TALKING POINT FOR USE WITH THE EU AND OTHER LIKE-MINDED COUNTRIES:

- EU and like-minded countries: We solicit your help to work with us in support of a resolution that is measured, constructive and unbiased, which will help, rather than harm, the peace process. We welcome your suggestions and would like to work together to meet the objectives outlined above. (para 8).

END TALKING POINTS
CLINTON